



American Orthotic & Prosthetic Association

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AOPA In Advance SmartBrief

Breaking News

June 23, 2015

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Last Minute Effort to Right a Terrible Wrong Against Amputees – Help Needed in NY

Please see this notice from John Tyo at Syracuse Prosthetic Center regarding the “One limb per lifetime” insurance restriction in New York:

It is the 11th hour and we desperately need your help. What we thought was a done deal - Bill S01708 to rescind the "one limb per lifetime" rule in New York State, is being held up in committees and is not being allowed to come to the Senate floor for a vote where it is virtually guaranteed of passing. Blue Cross/Blue Shield is totally opposed to the bill and it has been stuck in the insurance committee.



As it has been explained to me this is where we stand:

The bill passed in the Assembly 143 yeas no nays.

The bill is currently in “Program Counsel” where non-elected officials work in the language. The bill is also now in the senate “Working Rules Committee”. Senator Nozzolio and Senator DeFrancisco are two of the five Senators in this committee. The working rules committee has the power to bring this bill to the floor for a vote. We need at least twenty phone calls and emails to three state Senators by end of day June 23rd.

Senator Nozzolio’s office telephone is 1-518-455-2366. His email is nozzolio@nysenate.gov

Senator DeFrancisco’s office telephone is 1-518-455-3511. His email is jdefranc@nysenate.gov

State to the aide you are connected to that you know the only way to bring this bill to a vote is if they bring it to the floor from the “working rules committee”

Tell the aide you are only one of many hundreds of amputees and family members counting on him to make sure that the bill comes out of committee and goes to the floor for a vote. If you can, please follow your calls up with an email.

Then send an email to Senator Flanagan's office. He is the majority leader in the NY senate. State that you need him to move bill S1708, which ensures that those in need of a prosthetic limb can receive their prosthetic in a timely fashion and be covered by all insurances. It also allows prosthetic providers to care for their patients and ensure their patients with the quality of life that they deserve. Please forward this to others you know of who can call and send an email.

*Senator Flanagan's email is Flanagan@nysenate.gov
Also follow this email with a phone call if you can.
Senator Flanagan's number is 1-518-455-2071*

*If we can flood the Senators with calls and emails we may just be able to pull off a miracle.
Many, many thanks*

From all of us at SPC, our patients and their friends, families and supporters.

Legislation Repealing the Medical Device Tax Passes House

Legislation to repeal the medical device tax passed the House Thursday afternoon. The bill, H.R. 160, the *Protect Medical Innovation Act*, passed the House by a bipartisan vote of 280-140. H.R. 160 eliminates the 2.3% tax on medical devices that was included in the President's health care law. The legislation now heads to the Senate where repealing the medical device tax also has bipartisan support. A nonbinding vote to repeal the tax has previously received 79 votes.

AOPA had secured an exemption for nearly all O&P devices back in 2012 so the impact to O&P if this tax is repealed is not expected to be substantial.



O&P Alliance Meets with CMS Deputy Administrator Dr. Shantanu Agrawal

On June 3, the O&P Alliance, including AOPA's President Charles Dankmeyer, and Executive Director Tom Fise, JD, met with the Deputy Administrator and Director of the Center for Program Integrity at CMS. The meeting included several topics: local coverage determination (LCD) recognition of O&P clinicians' notes as part of the medical record; who can bill Medicare for prefabricated and custom-fitted orthotics and the definition of "minimal self-adjustment"; and audit concerns about new proof of delivery requirements.

The O&P Alliance requested that CMS revise certain provisions of the LCDs issued by the Durable Medical Equipment Medicare Administrative Contractors (DME MACs). Recovery auditor contractors (RACs) are restricting coverage of prosthetic care based on DME MAC instruction that "a prescription is not considered as part of the medical record" and "supplier-produced records... are not deemed part of a medical record". Thus the medical necessity is based solely on physician documentation [typically, physicians do not receive thorough training on the specific componentry used to fabricate a custom prosthesis, so if (as CMS via its contractors has articulated) any patient record or communication to the physician by the prosthetist is automatically disqualified from consideration as biased, there is slim chance that

the physician notes alone will define medical necessity and the specific justification for each unique device to support reimbursement], resulting in denied claims on lower limb prosthetics that have been delivered. The five O&P Alliance members in a letter objected to this limited CMS view, and urged that the records from the prosthetist/orthotist's patient care note do constitute a legitimate part of the medical record for purposes of medical necessity determinations. Consistent with that communication, during the meeting, the O&P Alliance requested that CMS and the DME MACs eliminate the restrictions on the physician's prescription and the prosthetist's clinical notes from being considered part of the medical record when reviewing a prosthetic limb claim for medical necessity and Medicare coverage.

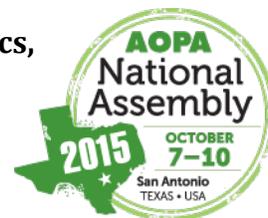
The O&P Alliance also addressed the topic of determining who can provide prefabricated/custom-fabricated orthoses and prostheses. CMS asserts that orthotic fitters are not considered to have specialized training for purposes of providing custom-fitting. The O&P Alliance has taken the position, dating back to the comments the groups submitted in August, 2014 in response to CMS' proposed rule on OTS orthotics, that CMS should continue to allow the provision of prefabricated/custom-fitted orthoses by orthotic fitters, as they have been licensed in their state or by the established accreditation bodies, provided the services are provided under the supervision of the certified orthotist (or physician, practitioner or physical/occupational therapist. Additionally, CMS has attempted to overreach with its definition of off-the-shelf orthotics by expanding the meaning of the term "minimal self-adjustment", in contrast to Congress's definition in BIPA 2000, Section 427. The Alliance requested that CMS regulate orthotics in a manner consistent with all federal statutory requirements, similar to the request made in a recent [Congressional sign on letter](#) to HHS Secretary Burwell.

The last topic for discussion was the DME MAC's overreach with proof of delivery requirements, with a [Jurisdiction A memo](#) on Proof of Delivery. The memo states that HCPCS codes are not adequate for establishing proper coding determination, and instead requests a brand name or model/serial number. Congress does not have the authority to control medical device labeling, as it conflicts with the FDA's position that most O&P devices are not obliged to carry any brand name, model or serial number. Under the new DME MAC policy, if a device which fully meets FDA labeling rules does not go beyond those rules to include the brand name, model or serial number (which FDA says is not required), they face a very high bar to meet new DME MAC requirements around the seemingly straightforward issue of what device was delivered to the Medical beneficiary, and the highly specific HCPCS code descriptor are deemed not sufficient. The O&P Alliance stressed that this new proof of delivery policy creates another administrative hurdle that would lead to more technical denials of claims, and further, the fact that it is FDA, and not CMS, that has been delegated by Congress with full control over the content of what does and does not need to be included in medical device labeling has [already been decided](#).

While meeting with Dr. Agrawal is a productive step in correcting unfair practices targeting the O&P community, AOPA and the O&P Alliance will continue to press for tangible policy changes through meetings with CMS officials, and legislative channels including grassroots advocacy.

AOPA Assembly Spotlight: AOPA Expert Joe McTernan Presents Three Essential Sessions

Register today for the country’s oldest & largest meeting for orthotics, prosthetics and pedorthics!



- Over 35 CE Credits
- Five Concurrent Education Tracks for Orthotists, Prosthetists, Technicians, Pedorthists and Business Managers
- An Exhibit Hall packed full of every device, service, tool and product you will ever need
- Engaging Networking events
- Top-Notch Speakers from around the world.

Assembly Session Spotlight

AOPA’s own Joe McTernan, Director of Coding and Reimbursement Services, Education and Programming will present three different in-depth programs at this year’s Assembly.



Joe McTernan currently serves as Director of Coding & Reimbursement Services, Education & Programming for the American Orthotic and Prosthetic Association (AOPA). He also served as AOPA’s Manager of Reimbursement from 1996 until 1998. From 1998 until 2005, he served as Director of Regulatory Affairs for Hanger Prosthetics and Orthotics in Bethesda, Maryland. Joe is considered an expert in O&P Coding, Billing and regulatory matters. He is a sought after speaker.

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| <p>Thursday, October 8, 2015 11:00 AM – 12:00 PM Documentation—Create Audit-Proof Patient Charts</p> <p>Attendees at this session will learn how to prepare documentation in a way that will help to lessen the impact of audits down the road. Topics of discussion will include documenting the “what” and also the “why;” maintaining clinical consistency when documenting; what the auditors are looking for; and adding documentation after the fact. Attendees will leave the session with a thorough understanding of improving audit success and documentation.</p> | <p>Friday, October 9, 2015 11:00 AM – 12:00 PM Lessons Learned—Audits and Appeals</p> <p>Attendees at this session will have the opportunity to review examples of both good and bad documentation and understand how it can mean the difference between a paid claim and a denied claim. Strategies to create processes that ensure documentation is done correctly will also be discussed.</p> | <p>Saturday, October 10, 2015 9:00 AM – 10:00 AM Coding and Reimbursement</p> <p>Attendees at this session will discuss basic principles that govern Medicare coding and reimbursement. Topics for discussion will include the difference between Local Coverage Determinations and Policy Articles, common coding errors and omissions, and strategies to maximize Medicare reimbursement without sacrificing Medicare compliance.</p> |
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[Preview the Preliminary Program](#)
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[General Information](#)
[Hotel Reservations](#)

Questions: Visit www.AOPAnet.org or Contact AOPA at (571) 431-0876 or info@AOPAnet.org

NCOPE Releases O&P Workforce Supply Analysis

The National Commission on Orthotic and Prosthetic Education (NCOPE) recently released its analysis projecting O&P workforce supply and patient demand over the next ten years. The study estimates and projects the future ability of O&P professionals to meet patient demand from 2015 to 2025. Workforce projections allow the O&P profession to better align its workforce with the future demand for their services. The study was conducted by Dobson DaVanzo & Associates, LLC under the direction of NCOPE. The project was funded in part by an \$11.1M grant awarded by the U.S. Department of Labor's Employment and Training Administration. The analysis was created by NCOPE and does not necessarily reflect the official position of the U.S. Department of Labor.



According to the study, the overall number of credentialed O&P providers will need to increase approximately 60 percent by 2025 to meet the growing demand, otherwise the workforce will shift towards non-credentialed providers. This analysis was inclusive for all levels of O&P and unfortunately there were limitations with analyzing and estimating the available data. NCOPE will present a more detailed review of the results in October during the AOPA National Assembly in San Antonio, Texas. NCOPE will use the workforce analysis to plan for future education standards and pathways to pursuing certification. The results will also be used by the HOPE grant consortium participants, as well as other educational programs, to assist in development of new or improved educational content/curriculum in educating the future population of O&P professionals. A complete copy of *Projecting the Adequacy of Workforce Supply to Meet Patient Demand* is available at www.ncope.org.

Upcoming AOPA Events

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| July 8, 2015 | <i>Who's on First? Medicare as a Secondary Payer</i> Webinar Conference Learn more or register online here |
| July 13-14, 2015 | <i>Essential Coding & Billing Techniques Seminar</i> Philadelphia, PA Learn more or register online here |
| Oct 7-10, 2015 | <i>AOPA 2015 National Assembly</i> San Antonio, TX Learn more or register online here |